

**Introduced by Senator Machado**

February 18, 2005

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An act to amend Sections 63.1 and 69.5 of the Revenue and Taxation Code, relating to public records.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 599, as introduced, Machado. Property tax relief claim forms: public record exclusion.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution and existing property tax law excludes from a "change in ownership" specified property transfers between parents and their children and grandparents and their grandchildren if, among other conditions, a claim is filed for the exclusion. Existing law authorizes a person aged 55 years or older or who is severely and permanently disabled to transfer the base year value, as defined, of his or her principal residence to a comparable replacement dwelling, as specified, if, among other conditions, the person files a claim for this transfer.

This bill would specify that claims filed for the parent–child or grandparent–grandchild transfer change in ownership exclusion or for the authority to transfer a base year value to a replacement dwelling are not public documents and are not open for public inspection.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars (\$1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one million dollar (\$1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), “principal residence” means a dwelling for which a homeowners’ exemption or a disabled veterans’ residence exemption has been granted in the name of the eligible transferor. “Principal residence” includes only that portion of the land underlying the

1 principal residence that consists of an area of reasonable size that  
2 is used as a site for the residence.

3 (2) For purposes of paragraph (2) of subdivision (a), the one  
4 million dollar (\$1,000,000) exclusion shall apply separately to  
5 each eligible transferor with respect to all purchases by and  
6 transfers to eligible transferees on and after November 6, 1986,  
7 of real property, other than the principal residence, of that  
8 eligible transferor. The exclusion shall not apply to any property  
9 in which the eligible transferor's interest was received through a  
10 transfer, or transfers, excluded from change in ownership by the  
11 provisions of either subdivision (f) of Section 62 or subdivision  
12 (b) of Section 65, unless the transferor qualifies as an original  
13 transferor under subdivision (b) of Section 65. In the case of any  
14 purchase or transfer subject to this paragraph involving two or  
15 more eligible transferors, the transferors may elect to combine  
16 their separate one million dollar (\$1,000,000) exclusions and,  
17 upon making that election, the combined amount of their separate  
18 exclusions shall apply to any property jointly sold or transferred  
19 by the electing transferors, provided that in no case shall the  
20 amount of full cash value of real property of any one eligible  
21 transferor excluded under this election exceed the amount of the  
22 transferor's separate unused exclusion on the date of the joint  
23 sale or transfer.

24 (c) As used in this section:

25 (1) "Purchase or transfer between parents and their children"  
26 means either a transfer from a parent or parents to a child or  
27 children of the parent or parents or a transfer from a child or  
28 children to a parent or parents of the child or children. For  
29 purposes of this section, the date of any transfer between parents  
30 and their children under a will or intestate succession shall be the  
31 date of the decedent's death, if the decedent died on or after  
32 November 6, 1986.

33 (2) "Purchase or transfer of real property between  
34 grandparents and their grandchild or grandchildren" means a  
35 purchase or transfer on or after March 27, 1996, from a  
36 grandparent or grandparents to a grandchild or grandchildren if  
37 all of the parents of that grandchild or those grandchildren who  
38 qualify as the children of the grandparents are deceased as of the  
39 date of the transfer. For purposes of this section, the date of any  
40 transfer between grandparents and their grandchildren under a

1 will or by intestate succession shall be the date of the decedent's  
2 death.

3 (3) "Children" means any of the following:

4 (A) Any child born of the parent or parents, except a child, as  
5 defined in subparagraph (D), who has been adopted by another  
6 person or persons.

7 (B) Any stepchild of the parent or parents and the spouse of  
8 that stepchild while the relationship of stepparent and stepchild  
9 exists. For purposes of this paragraph, the relationship of  
10 stepparent and stepchild shall be deemed to exist until the  
11 marriage on which the relationship is based is terminated by  
12 divorce, or, if the relationship is terminated by death, until the  
13 remarriage of the surviving stepparent.

14 (C) Any son-in-law or daughter-in-law of the parent or  
15 parents. For the purposes of this paragraph, the relationship of  
16 parent and son-in-law or daughter-in-law shall be deemed to exist  
17 until the marriage on which the relationship is based is  
18 terminated by divorce, or, if the relationship is terminated by  
19 death, until the remarriage of the surviving son-in-law or  
20 daughter-in-law.

21 (D) Any child adopted by the parent or parents pursuant to  
22 statute, other than an individual adopted after reaching the age of  
23 18 years.

24 (4) "Grandchild" or "grandchildren" means any child or  
25 children of the child or children of the grandparent or  
26 grandparents.

27 (5) "Full cash value" means full cash value, as defined in  
28 Section 2 of Article XIII A of the California Constitution and  
29 Section 110.1, with any adjustments authorized by those sections,  
30 and the full value of any new construction in progress,  
31 determined as of the date immediately prior to the date of a  
32 purchase by or transfer to an eligible transferee of real property  
33 subject to this section.

34 (6) "Eligible transferor" means a grandparent, parent, or child  
35 of an eligible transferee.

36 (7) "Eligible transferee" means a parent, child, or grandchild  
37 of an eligible transferor.

38 (8) "Real property" means real property as defined in Section  
39 104. Real property does not include any interest in a legal entity.

1 (9) “Transfer” includes, and is not limited to, any transfer of  
2 the present beneficial ownership of property from an eligible  
3 transferor to an eligible transferee through the medium of an inter  
4 vivos or testamentary trust.

5 (10) “Social security number” also includes a taxpayer  
6 identification number issued by the Internal Revenue Service in  
7 the case in which the taxpayer is a foreign national who cannot  
8 obtain a social security number.

9 (d) (1) The exclusions provided for in subdivision (a) shall  
10 not be allowed unless the eligible transferee, the transferee’s  
11 legal representative, or the executor or administrator of the  
12 transferee’s estate files a claim with the assessor for the  
13 exclusion sought and furnishes to the assessor each of the  
14 following:

15 (A) A written certification by the transferee, the transferee’s  
16 legal representative, or the executor or administrator of the  
17 transferee’s estate, signed and made under penalty of perjury that  
18 the transferee is a grandparent, parent, child, or grandchild of the  
19 transferor and that the transferor is his or her parent, child, or  
20 grandparent. In the case of a grandparent-grandchild transfer, the  
21 written certification shall also include a certification that all the  
22 parents of the grandchild or grandchildren who qualify as  
23 children of the grandparents were deceased as of the date of the  
24 purchase or transfer and that the grandchild or grandchildren did  
25 or did not receive a principal residence excludable under  
26 paragraph (1) of subdivision (a) from the deceased parents, and  
27 that the grandchild or grandchildren did or did not receive real  
28 property other than a principal residence excludable under  
29 paragraph (2) of subdivision (a) from the deceased parents. The  
30 claimant shall provide legal substantiation of any matter certified  
31 pursuant to this subparagraph at the request of the county  
32 assessor.

33 (B) A written certification by the transferor, the transferor’s  
34 legal representative, or the executor or administrator of the  
35 transferor’s estate, signed and made under penalty of perjury that  
36 the transferor is a grandparent, parent, or child of the transferee  
37 and that the transferor is seeking the exclusion under this section  
38 and will not file a claim to transfer the base year value of the  
39 property under Section 69.5.

1 (C) A written certification shall also include either or both of  
2 the following:

3 (i) If the purchase or transfer of real property includes the  
4 purchase or transfer of residential real property, a certification  
5 that the residential real property is or is not the transferor's  
6 principal residence.

7 (ii) If the purchase or transfer of real property includes the  
8 purchase or transfer of real property other than the transferor's  
9 principal residence, a certification that other real property of the  
10 transferor that is subject to this section has or has not been  
11 previously sold or transferred to an eligible transferee, the total  
12 amount of full cash value, as defined in subdivision (c), of any  
13 real property subject to this section that has been previously sold  
14 or transferred by that transferor to eligible transferees, the  
15 location of that real property, the social security number of each  
16 eligible transferor, and the names of the eligible transferees of  
17 that property.

18 (D) If there are multiple transferees, the certification and  
19 signature may be made by any one of the transferees, if both of  
20 the following conditions are met:

21 (i) The transferee has actual knowledge that, and the  
22 certification signed by the transferee states that, all of the  
23 transferees are eligible transferees within the meaning of this  
24 section.

25 (ii) The certification is signed by the transferee as a true  
26 statement made under penalty of perjury.

27 (2) If the full cash value of the real property purchased by or  
28 transferred to the transferee exceeds the permissible exclusion of  
29 the transferor or the combined permissible exclusion of the  
30 transferors, in the case of a purchase or transfer from two or more  
31 joint transferors, taking into account any previous purchases by  
32 or transfers to an eligible transferee from the same transferor or  
33 transferors, the transferee shall specify in his or her claim the  
34 amount and the allocation of the exclusion he or she is seeking.  
35 Within any appraisal unit, as determined in accordance with  
36 subdivision (d) of Section 51 by the assessor of the county in  
37 which the real property is located, the exclusion shall be applied  
38 only on a pro rata basis, however, and shall not be applied to a  
39 selected portion or portions of the appraisal unit.

1 (e) (1) The State Board of Equalization shall design the form  
2 for claiming eligibility. Except as provided in paragraph (2), any  
3 claim under this section shall be filed:

4 (A) For transfers of real property between parents and their  
5 children occurring prior to September 30, 1990, within three  
6 years after the date of the purchase or transfer of real property for  
7 which the claim is filed.

8 (B) For transfers of real property between parents and their  
9 children occurring on or after September 30, 1990, and for the  
10 purchase or transfer of real property between grandparents and  
11 their grandchildren occurring on or after March 27, 1996, within  
12 three years after the date of the purchase or transfer of real  
13 property for which the claim is filed, or prior to transfer of the  
14 real property to a third party, whichever is earlier.

15 (C) Notwithstanding subparagraphs (A) and (B), a claim shall  
16 be deemed to be timely filed if it is filed within six months after  
17 the date of mailing of a notice of supplemental or escape  
18 assessment, issued as a result of the purchase or transfer of real  
19 property for which the claim is filed.

20 (2) In the case in which the real property subject to purchase  
21 or transfer has not been transferred to a third party, a claim for  
22 exclusion under this section that is filed subsequent to the  
23 expiration of the filing periods set forth in paragraph (1) shall be  
24 considered by the assessor, subject to all of the following  
25 conditions:

26 (A) Any exclusion granted pursuant to that claim shall apply  
27 commencing with the lien date of the assessment year in which  
28 the claim is filed.

29 (B) Under any exclusion granted pursuant to that claim, the  
30 adjusted full cash value of the subject real property in the  
31 assessment year described in subparagraph (A) shall be the  
32 adjusted base year value of the subject real property in the  
33 assessment year in which the excluded purchase or transfer took  
34 place, factored to the assessment year described in subparagraph  
35 (A) for both of the following:

36 (i) Inflation as annually determined in accordance with  
37 paragraph (1) of subdivision (a) of Section 51.

38 (ii) Any subsequent new construction occurring with respect to  
39 the subject real property.

1 (3) (A) Unless otherwise expressly provided, the provisions of  
2 this subdivision shall apply to any purchase or transfer of real  
3 property that occurred on or after November 6, 1986.

4 (B) Paragraph (2) shall apply to purchases or transfers  
5 between parents and their children that occurred on or after  
6 November 6, 1986, and to purchases or transfers between  
7 grandparents and their grandchildren that occurred on or after  
8 March 27, 1996.

9 (4) For purposes of this subdivision, a transfer of real property  
10 to a parent or child of the transferor shall not be considered a  
11 transfer to a third party.

12 (f) The assessor may report quarterly to the State Board of  
13 Equalization all purchases or transfers, other than purchases or  
14 transfers involving a principal residence, for which a claim for  
15 exclusion is made pursuant to subdivision (d). Each report shall  
16 contain the assessor's parcel number for each parcel for which  
17 the exclusion is claimed, the amount of each exclusion claimed,  
18 the social security number of each eligible transferor, and any  
19 other information the board may require in order to monitor the  
20 one million dollar (\$1,000,000) limitation in paragraph (2) of  
21 subdivision (a). In recognition of the state and local interests  
22 served by the action made optional in this subdivision, the  
23 Legislature encourages the assessor to continue taking the action  
24 formerly mandated by this subdivision.

25 (g) This section shall apply to both voluntary transfers and  
26 transfers resulting from a court order or judicial decree. Nothing  
27 in this subdivision shall be construed as conflicting with  
28 paragraph (1) of subdivision (c) or the general principle that  
29 transfers by reason of death occur at the time of death.

30 (h) (1) Except as provided in paragraph (2), this section shall  
31 apply to purchases and transfers of real property completed on or  
32 after November 6, 1986, and shall not be effective for any change  
33 in ownership, including a change in ownership arising on the date  
34 of a decedent's death, that occurred prior to that date.

35 (2) This section shall apply to purchases or transfers of real  
36 property between grandparents and their grandchildren occurring  
37 on or after March 27, 1996, and, with respect to purchases or  
38 transfers of real property between grandparents and their  
39 grandchildren, shall not be effective for any change in ownership,



1 including a change in ownership arising on the date of a  
2 decedent's death, that occurred prior to that date.

3 *(i) A claim filed under this section is not a public document*  
4 *and is not subject to public inspection.*

5 SEC. 2. Section 69.5 of the Revenue and Taxation Code is  
6 amended to read:

7 69.5. (a) (1) Notwithstanding any other provision of law,  
8 pursuant to subdivision (a) of Section 2 of Article XIII A of the  
9 California Constitution, any person over the age of 55 years, or  
10 any severely and permanently disabled person, who resides in  
11 property that is eligible for the homeowner's exemption under  
12 subdivision (k) of Section 3 of Article XIII of the California  
13 Constitution and Section 218 may transfer, subject to the  
14 conditions and limitations provided in this section, the base year  
15 value of that property to any replacement dwelling of equal or  
16 lesser value that is located within the same county and is  
17 purchased or newly constructed by that person as his or her  
18 principal residence within two years of the sale by that person of  
19 the original property, provided that the base year value of the  
20 original property shall not be transferred to the replacement  
21 dwelling until the original property is sold.

22 (2) Notwithstanding the limitation in paragraph (1) requiring  
23 that the original property and the replacement dwelling be  
24 located in the same county, this limitation shall not apply in any  
25 county in which the county board of supervisors, after  
26 consultation with local affected agencies within the boundaries of  
27 the county, adopts an ordinance making the provisions of  
28 paragraph (1) also applicable to situations in which replacement  
29 dwellings are located in that county and the original properties  
30 are located in another county within this state. The authorization  
31 contained in this paragraph shall be applicable in a county only if  
32 the ordinance adopted by the board of supervisors complies with  
33 all of the following requirements:

34 (A) It is adopted only after consultation between the board of  
35 supervisors and all other local affected agencies within the  
36 county's boundaries.

37 (B) It requires that all claims for transfers of base year value  
38 from original property located in another county be granted if the  
39 claims meet the applicable requirements of both subdivision (a)

1 of Section 2 of Article XIII A of the California Constitution and  
2 this section.

3 (C) It requires that all base year valuations of original property  
4 located in another county and determined by its assessor be  
5 accepted in connection with the granting of claims for transfers  
6 of base year value.

7 (D) It provides that its provisions are operative for a period of  
8 not less than five years.

9 (E) The ordinance specifies the date on and after which its  
10 provisions shall be applicable. However, the date specified shall  
11 not be earlier than November 9, 1988. The specified applicable  
12 date may be a date earlier than the date the county adopts the  
13 ordinance.

14 (b) In addition to meeting the requirements of subdivision (a),  
15 any person claiming the property tax relief provided by this  
16 section shall be eligible for that relief only if the following  
17 conditions are met:

18 (1) The claimant is an owner and a resident of the original  
19 property either at the time of its sale, or at the time when the  
20 original property was substantially damaged or destroyed by  
21 misfortune or calamity, or within two years of the purchase or  
22 new construction of the replacement dwelling.

23 (2) The original property is eligible for the homeowner's  
24 exemption, as the result of the claimant's ownership and  
25 occupation of the property as his or her principal residence, either  
26 at the time of its sale, or at the time when the original property  
27 was substantially damaged or destroyed by misfortune or  
28 calamity, or within two years of the purchase or new construction  
29 of the replacement dwelling.

30 (3) At the time of the sale of the original property, the  
31 claimant or the claimant's spouse who resides with the claimant  
32 is at least 55 years of age, or is severely and permanently  
33 disabled.

34 (4) At the time of claiming the property tax relief provided by  
35 subdivision (a), the claimant is an owner of a replacement  
36 dwelling and occupies it as his or her principal place of residence  
37 and, as a result thereof, the property is currently eligible for the  
38 homeowner's exemption or would be eligible for the exemption  
39 except that the property is already receiving the exemption  
40 because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the

1 claimant's replacement dwelling only the base year value of the  
2 claimant's unit or lot and his or her share in any common area  
3 reserved as an appurtenance of that unit or lot. If the unit or lot  
4 constitutes the replacement dwelling of the claimant, the assessor  
5 shall transfer the base year value of the claimant's original  
6 property only to the unit or lot of the claimant and any share of  
7 the claimant in any common area reserved as an appurtenance of  
8 that unit or lot.

9 (2) A manufactured home or a manufactured home and any  
10 land owned by the claimant on which the manufactured home is  
11 situated. For purposes of this paragraph, "land owned by the  
12 claimant" includes a pro rata interest in a resident-owned  
13 mobilehome park that is assessed pursuant to subdivision (b) of  
14 Section 62.1.

15 (A) If the manufactured home or the manufactured home and  
16 the land on which it is situated constitutes the claimant's original  
17 property, the assessor shall transfer to the claimant's replacement  
18 dwelling either the base year value of the manufactured home or  
19 the base year value of the manufactured home and the land on  
20 which it is situated, as appropriate. If the manufactured home  
21 dwelling that constitutes the original property of the claimant  
22 includes an interest in a resident-owned mobilehome park, the  
23 assessor shall transfer to the claimant's replacement dwelling the  
24 base year value of the claimant's manufactured home and his or  
25 her pro rata portion of the real property of the park. No transfer  
26 of base year value shall be made by the assessor of that portion of  
27 land that does not constitute a part of the original property, as  
28 provided in paragraph (4) of subdivision (g).

29 (B) If the manufactured home or the manufactured home and  
30 the land on which it is situated constitutes the claimant's  
31 replacement dwelling, the assessor shall transfer the base year  
32 value of the claimant's original property either to the  
33 manufactured home or the manufactured home and the land on  
34 which it is situated, as appropriate. If the manufactured home  
35 dwelling that constitutes the replacement dwelling of the  
36 claimant includes an interest in a resident-owned mobilehome  
37 park, the assessor shall transfer the base year value of the  
38 claimant's original property to the manufactured home of the  
39 claimant and his or her pro rata portion of the park. No transfer  
40 of base year value shall be made by the assessor to that portion of

1 land that does not constitute a part of the replacement dwelling,  
2 as provided in paragraph (3) of subdivision (g).

3 This subdivision shall be subject to the limitations specified in  
4 subdivision (d).

5 (d) The property tax relief provided by this section shall be  
6 available to a claimant who is the coowner of original property,  
7 as a joint tenant, a tenant in common, or a community property  
8 owner, subject to the following limitations:

9 (1) If a single replacement dwelling is purchased or newly  
10 constructed by all of the coowners and each coowner retains an  
11 interest in the replacement dwelling, the claimant shall be  
12 eligible under this section whether or not any or all of the  
13 remaining coowners would otherwise be eligible claimants.

14 (2) If two or more replacement dwellings are separately  
15 purchased or newly constructed by two or more coowners and  
16 more than one coowner would otherwise be an eligible claimant,  
17 only one coowner shall be eligible under this section. These  
18 coowners shall determine by mutual agreement which one of  
19 them shall be deemed eligible.

20 (3) If two or more replacement dwellings are separately  
21 purchased or newly constructed by two coowners who held the  
22 original property as community property, only the coowner who  
23 has attained the age of 55 years, or is severely and permanently  
24 disabled, shall be eligible under this section. If both spouses are  
25 over 55 years of age, they shall determine by mutual agreement  
26 which one of them is eligible.

27 In the case of coowners whose original property is a multiunit  
28 dwelling, the limitations imposed by paragraphs (2) and (3) shall  
29 only apply to coowners who occupied the same dwelling unit  
30 within the original property at the time specified in paragraph (2)  
31 of subdivision (b).

32 (e) Upon the sale of original property, the assessor shall  
33 determine a new base year value for that property in accordance  
34 with subdivision (a) of Section 2 of Article XIII A of the  
35 California Constitution and Section 110.1, whether or not a  
36 replacement dwelling is subsequently purchased or newly  
37 constructed by the former owner or owners of the original  
38 property.

39 This section shall not apply unless the transfer of the original  
40 property is a change in ownership that either (1) subjects that

1 property to reappraisal at its current fair market value in  
2 accordance with Section 110.1 or 5803 or (2) results in a base  
3 year value determined in accordance with this section, Section  
4 69, or Section 69.3 because the property qualifies under this  
5 section, Section 69, or Section 69.3 as a replacement dwelling or  
6 property.

7 (f) A claimant shall not be eligible for the property tax relief  
8 provided by this section unless the claimant provides to the  
9 assessor, on a form that the assessor shall make available upon  
10 request, the following information:

11 (1) The name and social security number of each claimant and  
12 of any spouse of the claimant who ~~was a record owner of the~~  
13 ~~original property at the time of its sale or~~ is a record owner of the  
14 replacement dwelling.

15 (2) Proof that the claimant or the claimant's spouse who  
16 resided on the original property with the claimant was, at the  
17 time of its sale, at least 55 years of age, or severely and  
18 permanently disabled. Proof of severe and permanent disability  
19 shall be considered a certification, signed by a licensed physician  
20 and surgeon of appropriate specialty, attesting to the claimant's  
21 severely and permanently disabled condition. In the absence of  
22 available proof that a person is over 55 years of age, the claimant  
23 shall certify under penalty of perjury that the age requirement is  
24 met. In the case of a severely and permanently disabled claimant  
25 either of the following shall be submitted:

26 (A) A certification, signed by a licensed physician or surgeon  
27 of appropriate specialty that identifies specific reasons why the  
28 disability necessitates a move to the replacement dwelling and  
29 the disability-related requirements, including any locational  
30 requirements, of a replacement dwelling. The claimant shall  
31 substantiate that the replacement dwelling meets  
32 disability-related requirements so identified and that the primary  
33 reason for the move to the replacement dwelling is to satisfy  
34 those requirements. If the claimant, or the claimant's spouse or  
35 guardian, so declares under penalty of perjury, it shall be  
36 rebuttably presumed that the primary purpose of the move to the  
37 replacement dwelling is to satisfy identified disability-related  
38 requirements.

39 (B) The claimant's substantiation that the primary purpose of  
40 the move to the replacement dwelling is to alleviate financial

1 burdens caused by the disability. If the claimant, or the  
2 claimant's spouse or guardian, so declares under penalty of  
3 perjury, it shall be rebuttably presumed that the primary purpose  
4 of the move is to alleviate the financial burdens caused by the  
5 disability.

6 (3) The address and, if known, the assessor's parcel number of  
7 the original property.

8 (4) The date of the claimant's sale of the original property and  
9 the date of the claimant's purchase or new construction of a  
10 replacement dwelling.

11 (5) A statement by the claimant that he or she occupied the  
12 replacement dwelling as his or her principal place of residence on  
13 the date of the filing of his or her claim.

14 The State Board of Equalization shall design the form for  
15 claiming eligibility.

16 Any claim under this section shall be filed within three years of  
17 the date the replacement dwelling was purchased or the new  
18 construction of the replacement dwelling was completed subject  
19 to subdivision (k) or (m).

20 (g) For purposes of this section:

21 (1) "Person over the age of 55 years" means any person or the  
22 spouse of any person who has attained the age of 55 years or  
23 older at the time of the sale of original property.

24 (2) "Base year value of the original property" means its base  
25 year value, as determined in accordance with Section 110.1, with  
26 the adjustments permitted by subdivision (b) of Section 2 of  
27 Article XIII A of the California Constitution and subdivision (f)  
28 of Section 110.1, determined as of the date immediately prior to  
29 the date that the original property is sold by the claimant, or in  
30 the case where the original property has been substantially  
31 damaged or destroyed by misfortune or calamity and the owner  
32 does not rebuild on the original property, determined as of the  
33 date immediately prior to the misfortune or calamity.

34 If the replacement dwelling is purchased or newly constructed  
35 after the transfer of the original property, "base year value of the  
36 original property" also includes any inflation factor adjustments  
37 permitted by subdivision (f) of Section 110.1 for the period  
38 subsequent to the sale of the original property. The base year or  
39 years used to compute the "base year value of the original  
40 property" shall be deemed to be the base year or years of any

1 property to which that base year value is transferred pursuant to  
2 this section.

3 (3) “Replacement dwelling” means a building, structure, or  
4 other shelter constituting a place of abode, whether real property  
5 or personal property, that is owned and occupied by a claimant as  
6 his or her principal place of residence, and any land owned by the  
7 claimant on which the building, structure, or other shelter is  
8 situated. For purposes of this paragraph, land constituting a part  
9 of a replacement dwelling includes only that area of reasonable  
10 size that is used as a site for a residence, and “land owned by the  
11 claimant” includes land for which the claimant either holds a  
12 leasehold interest described in subdivision (c) of Section 61 or a  
13 land purchase contract. Each unit of a multiunit dwelling shall be  
14 considered a separate replacement dwelling. For purposes of this  
15 paragraph, “area of reasonable size that is used as a site for a  
16 residence” includes all land if any nonresidential uses of the  
17 property are only incidental to the use of the property as a  
18 residential site. For purposes of this paragraph, “land owned by  
19 the claimant” includes an ownership interest in a resident-owned  
20 mobilehome park that is assessed pursuant to subdivision (b) of  
21 Section 62.1.

22 (4) “Original property” means a building, structure, or other  
23 shelter constituting a place of abode, whether real property or  
24 personal property, that is owned and occupied by a claimant as  
25 his or her principal place of residence, and any land owned by the  
26 claimant on which the building, structure, or other shelter is  
27 situated. For purposes of this paragraph, land constituting a part  
28 of original property includes only that area of reasonable size that  
29 is used as a site for a residence, and “land owned by the  
30 claimant” includes land for which the claimant either holds a  
31 leasehold interest described in subdivision (c) of Section 61 or a  
32 land purchase contract. Each unit of a multiunit dwelling shall be  
33 considered a separate original property. For purposes of this  
34 paragraph, “area of reasonable size that is used as a site for a  
35 residence” includes all land if any nonresidential uses of the  
36 property are only incidental to the use of the property as a  
37 residential site. For purposes of this paragraph, “land owned by  
38 the claimant” includes an ownership interest in a resident-owned  
39 mobilehome park that is assessed pursuant to subdivision (b) of  
40 Section 62.1.



1 (5) “Equal or lesser value” means that the amount of the full  
2 cash value of a replacement dwelling does not exceed one of the  
3 following:

4 (A) One hundred percent of the amount of the full cash value  
5 of the original property if the replacement dwelling is purchased  
6 or newly constructed prior to the date of the sale of the original  
7 property.

8 (B) One hundred and five percent of the amount of the full  
9 cash value of the original property if the replacement dwelling is  
10 purchased or newly constructed within the first year following  
11 the date of the sale of the original property.

12 (C) One hundred and ten percent of the amount of the full cash  
13 value of the original property if the replacement dwelling is  
14 purchased or newly constructed within the second year following  
15 the date of the sale of the original property.

16 For the purposes of this paragraph, except as otherwise  
17 provided in paragraph (4) of subdivision (h), if the replacement  
18 dwelling is, in part, purchased and, in part, newly constructed,  
19 the date the “replacement dwelling is purchased or newly  
20 constructed” is the date of purchase or the date of completion of  
21 construction, whichever is later.

22 (6) “Full cash value of the replacement dwelling” means its  
23 full cash value, determined in accordance with Section 110.1, as  
24 of the date on which it was purchased or new construction was  
25 completed, and after the purchase or the completion of new  
26 construction.

27 (7) “Full cash value of the original property” means, either:

28 (A) Its new base year value, determined in accordance with  
29 subdivision (e), without the application of subdivision (h) of  
30 Section 2 of Article XIII A of the California Constitution, plus  
31 the adjustments permitted by subdivision (b) of Section 2 of  
32 Article XIII A and subdivision (f) of Section 110.1 for the period  
33 from the date of its sale by the claimant to the date on which the  
34 replacement property was purchased or new construction was  
35 completed.

36 (B) In the case where the original property has been  
37 substantially damaged or destroyed by misfortune or calamity  
38 and the owner does not rebuild on the original property, its full  
39 cash value, as determined in accordance with Section 110,  
40 immediately prior to its substantial damage or destruction by

1 misfortune or calamity, as determined by the county assessor of  
2 the county in which the property is located, without the  
3 application of subdivision (h) of Section 2 of Article XIII A of  
4 the California Constitution, plus the adjustments permitted by  
5 subdivision (b) of Section 2 of Article XIII A and subdivision (f)  
6 of Section 110.1, for the period from the date of its sale by the  
7 claimant to the date on which the replacement property was  
8 purchased or new construction was completed.

9 (8) “Sale” means any change in ownership of the original  
10 property for consideration.

11 (9) “Claimant” means any person claiming the property tax  
12 relief provided by this section. If a spouse of that person is a  
13 record owner of the replacement dwelling, the spouse is also a  
14 claimant for purposes of determining whether in any future claim  
15 filed by the spouse under this section the condition of eligibility  
16 specified in paragraph (7) of subdivision (b) has been met.

17 (10) “Property that is eligible for the homeowner’s exemption”  
18 includes property that is the principal place of residence of its  
19 owner and is entitled to exemption pursuant to Section 205.5.

20 (11) “Person” means any individual, but does not include any  
21 firm, partnership, association, corporation, company, or other  
22 legal entity or organization of any kind.

23 (12) “Severely and permanently disabled” means any person  
24 described in subdivision (b) of Section 74.3.

25 (13) For the purposes of this section property is “substantially  
26 damaged or destroyed by misfortune or calamity” if it sustains  
27 physical damage amounting to more than 50 percent of its full  
28 cash value immediately prior to the misfortune or calamity.  
29 Damage includes a diminution in the value of property as a result  
30 of restricted access to the property where the restricted access  
31 was caused by the misfortune or calamity and is permanent in  
32 nature.

33 (h) (1) Upon the timely filing of a claim, the assessor shall  
34 adjust the new base year value of the replacement dwelling in  
35 conformity with this section. This adjustment shall be made as of  
36 the latest of the following dates:

37 (A) The date the original property is sold.

38 (B) The date the replacement dwelling is purchased.

39 (C) The date the new construction of the replacement dwelling  
40 is completed.

1 (2) Any taxes that were levied on the replacement dwelling  
2 prior to the filing of the claim on the basis of the replacement  
3 dwelling's new base year value, and any allowable annual  
4 adjustments thereto, shall be canceled or refunded to the claimant  
5 to the extent that the taxes exceed the amount that would be due  
6 when determined on the basis of the adjusted new base year  
7 value.

8 (3) Notwithstanding Section 75.10, Chapter 3.5 (commencing  
9 with Section 75) shall be utilized for purposes of implementing  
10 this subdivision, including adjustments of the new base year  
11 value of replacement dwellings acquired prior to the sale of the  
12 original property.

13 (4) In the case where a claim under this section has been  
14 timely filed and granted, and new construction is performed upon  
15 the replacement dwelling subsequent to the transfer of base year  
16 value, the property tax relief provided by this section also shall  
17 apply to the replacement dwelling, as improved, and thus there  
18 shall be no reassessment upon completion of the new  
19 construction if both of the following conditions are met:

20 (A) The new construction is completed within two years of the  
21 date of the sale of the original property and the owner notifies the  
22 assessor in writing of completion of the new construction within  
23 30 days after completion.

24 (B) The fair market value of the new construction on the date  
25 of completion, plus the full cash value of the replacement  
26 dwelling on the date of acquisition, is not more than the full cash  
27 value of the original property as determined pursuant to  
28 paragraph (7) of subdivision (g) for purposes of granting the  
29 original claim.

30 (i) Any claimant may rescind a claim for the property tax  
31 relief provided by this section and shall not be considered to have  
32 received that relief for purposes of paragraph (7) of subdivision  
33 (b), and the assessor shall grant the rescission, if a written notice  
34 of rescission is delivered to the office of the assessor as follows:

35 (1) A written notice of rescission signed by the original filing  
36 claimant or claimants is delivered to the office of the assessor in  
37 which the original claim was filed.

38 (2) (A) Except as otherwise provided in this paragraph, the  
39 notice of rescission is delivered to the office of the assessor  
40 before the date that the county first issues, as a result of relief

1 granted under this section, a refund check for property taxes  
2 imposed upon the replacement dwelling. If granting relief will  
3 not result in a refund of property taxes, then the notice shall be  
4 delivered before payment is first made of any property taxes, or  
5 any portion thereof, imposed upon the replacement dwelling  
6 consistent with relief granted under this section. If payment of  
7 the taxes is not made, then notice shall be delivered before the  
8 first date that those property taxes, or any portion thereof,  
9 imposed upon the replacement dwelling, consistent with relief  
10 granted under this section, are delinquent.

11 (B) Notwithstanding any other provision in this division, any  
12 time the notice of rescission is delivered to the office of the  
13 assessor within six years after relief was granted, provided that  
14 the replacement property has been vacated as the claimant's  
15 principal place of residence within 90 days after the original  
16 claim was filed, regardless of whether the property continues to  
17 receive the homeowner's exemption. If the rescission increases  
18 the base year value of a property, or the homeowners' exemption  
19 has been incorrectly allowed, appropriate escape assessments or  
20 supplemental assessments, including interest as provided in  
21 Section 506, shall be imposed. The limitations periods for any  
22 escape assessments or supplemental assessments shall not  
23 commence until July 1 of the assessment year in which the notice  
24 of rescission is delivered to the office of the assessor.

25 (3) The notice is accompanied by the payment of a fee as the  
26 assessor may require, provided that the fee shall not exceed an  
27 amount reasonably related to the estimated cost of processing a  
28 rescission claim, including both direct costs and developmental  
29 and indirect costs, such as costs for overhead, personnel,  
30 supplies, materials, office space, and computers.

31 (j) (1) With respect to the transfer of base year value of  
32 original properties to replacement dwellings located in the same  
33 county, this section, except as provided in paragraph (3) or (4),  
34 shall apply to any replacement dwelling that is purchased or  
35 newly constructed on or after November 6, 1986.

36 (2) With respect to the transfer of base year value of original  
37 properties to replacement dwellings located in different counties,  
38 except as provided in paragraph (4), this section shall apply to  
39 any replacement dwelling that is purchased or newly constructed  
40 on or after the date specified in accordance with subparagraph

1 (E) of paragraph (2) of subdivision (a) in the ordinance of the  
2 county in which the replacement dwelling is located, but shall not  
3 apply to any replacement dwelling which was purchased or  
4 newly constructed before November 9, 1988.

5 (3) With respect to the transfer of base year value by a  
6 severely and permanently disabled person, this section shall  
7 apply only to replacement dwellings that are purchased or newly  
8 constructed on or after June 6, 1990.

9 (4) The amendments made to subdivision (e) by the act adding  
10 this paragraph shall apply only to replacement dwellings under  
11 Section 69 that are acquired or newly constructed on or after  
12 October 20, 1991, and shall apply commencing with the 1991–92  
13 fiscal year.

14 (k) (1) In the case in which a county adopts an ordinance  
15 pursuant to paragraph (2) of subdivision (a) that establishes an  
16 applicable date which is more than three years prior to the date of  
17 adoption of the ordinance, those potential claimants who  
18 purchased or constructed replacement dwellings more than three  
19 years prior to the date of adoption of the ordinance and who  
20 would, therefore, be precluded from filing a timely claim, shall  
21 be deemed to have timely filed a claim if the claim is filed within  
22 three years after the date that the ordinance is adopted. This  
23 paragraph may not be construed as a waiver of any other  
24 requirement of this section.

25 (2) In the case in which a county assessor corrects a base year  
26 value to reflect a pro rata change in ownership of a  
27 resident-owned mobilehome park that occurred between January  
28 1, 1989, and January 1, 2002, pursuant to paragraph (4) of  
29 subdivision (b) of Section 62.1, those claimants who purchased  
30 or constructed replacement dwellings more than three years prior  
31 to the correction and who would, therefore, be precluded from  
32 filing a timely claim, shall be deemed to have timely filed a claim  
33 if the claim is filed within three years of the date of notice of the  
34 correction of the base year value to reflect the pro rata change in  
35 ownership. This paragraph may not be construed as a waiver of  
36 any other requirement of this section.

37 (3) This subdivision does not apply to a claimant who has  
38 transferred his or her replacement dwelling prior to filing a claim.

39 (4) The property tax relief provided by this section, but filed  
40 under this subdivision, shall apply prospectively only,

1 commencing with the lien date of the assessment year in which  
2 the claim is filed. There shall be no refund or cancellation of  
3 taxes prior to the date that the claim is filed.

4 (l) No escape assessment may be levied if a transfer of base  
5 year value under this section has been erroneously granted by the  
6 assessor pursuant to an expired ordinance authorizing intercounty  
7 transfers of base year value.

8 (m) (1) The amendments made to subdivisions (b) and (g) of  
9 this section by Chapter 613 of the Statutes of 2001 shall apply:

10 (A) With respect to the transfer of base year value of original  
11 properties to replacement dwellings located in the same county,  
12 to any replacement dwelling that is purchased or newly  
13 constructed on or after November 6, 1986.

14 (B) With respect to the transfer of base year value of original  
15 properties to replacement dwellings located in different counties,  
16 to any replacement dwelling that is purchased or newly  
17 constructed on or after the date specified in accordance with  
18 subparagraph (E) of paragraph (2) of subdivision (a) in the  
19 ordinance of the county in which the replacement dwelling is  
20 located, but not to any replacement dwelling that was purchased  
21 or newly constructed before November 9, 1988.

22 (C) With respect to the transfer of base year value by a  
23 severely and permanently disabled person, to replacement  
24 dwellings that are purchased or newly constructed on or after  
25 June 6, 1990.

26 (2) The property tax relief provided by this section in  
27 accordance with this subdivision shall apply prospectively only  
28 commencing with the lien date of the assessment year in which  
29 the claim is filed. There shall be no refund or cancellation of  
30 taxes prior to the date that the claim is filed. Notwithstanding  
31 subdivision (f), a claim shall be deemed to be timely filed if it is  
32 filed within four years after the operative date of the act adding  
33 this paragraph.

34 (n) *A claim filed under this section is not a public document*  
35 *and is not subject to public inspection.*